BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of:

FCC 2004 Biennial Regulatory Review	)	
Accounting and Reporting	)	
Requirements for Incumbent Local	)	
Exchange Carriers	)	
	)	**WC Docket No. 04-179**
Rule Parts Containing Regulations	)	
Administered by the Wireline	)	
Competition Bureau (WCB)	)	

Comments of the Kansas Corporation Commission

on the Public Notice in the

2004 Biennial Review of Telecommunications Regulations

The Kansas Corporation Commission (KCC) hereby submits comments regarding the Public Notice (PN) on the 2004 Biennial Regulatory Review. The KCC is the agency in the State of Kansas with jurisdiction to regulate intrastate activities of telecommunications carriers operating in the State of Kansas. As such, the KCC is an interested party to the proceeding.

In its Public Notice, the Federal Communications Commission (Commission) seeks suggestions regarding what rules should be modified or repealed as part of its 2004 biennial review. Pursuant to Section 11 of the Communications Act of 1934, as amended, 47 U.S.C. § 161, the Commission is required to review, on a biennial basis, regulations applicable to operations or activities of telecommunications service providers, and "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service."

The Commission directs that submitted suggestions should identify the rule(s) that should be modified, the reason why the rule(s) should be modified, and how the suggestion satisfy Section 11 as interpreted in *Cellco Partnership.*[1] Furthermore, the Commission states it resolved Section 11 interpretative issues in its *2002 Biennial Regulatory Review.*[2] In paragraph 207 of its

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[1] *Cellco Partnership v. FCC,* 357 F. 3d 88 (D.C. Cir. 2004) (*Cellco Partnership).*
[2] *2000 Biennial Regulatory Review-Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts*

Further Notice of Proposed Rulemaking, the FCC stated "[w]e believe that, if we cannot identify a federal need for a regulation, we are not justified in maintaining such a requirement at the federal level."

On September 5, 2002, the Commission convened a Joint Conference on Accounting Issues (Joint Conference), "to provide a forum for an ongoing dialogue between the Commission and states in order to ensure that regulatory accounting data and related information filed by carriers are adequate, truthful, and thorough," and noted that the Joint Conference was given a broad mandate in performing its work, including the ability to recommend additions to, or eliminations of, accounting requirements."[3] On October 9, 2003, the Joint Conference filed its recommendations[4] in regards to certain accounting and reporting requirements adopted in its *Phase II Report and Order.*[5] On June 22, 2004, the Commission released a *Report And Order*, in which it adopted certain recommendations and denied other recommendations set forth in the *Joint Conference Report.* In paragraph 64 of the *Report and Order*, the Commission stated that although commenters in that proceeding requested that the Commission address issues such as different regulatory requirements for price cap and rate of return carriers, eliminating continuing property records, reinstating reserve accounts, and other regulatory relief for the Regional Bell Operating Companies (RBOCs), the Joint Conference and the Commission would continue to examine those issues.

Scope of Biennial Review

Based on Section 11, the Commission is required to review regulations and "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service." Thus, the Commission must determination whether the elimination of any regulation is in the public interest, but only as a result of meaningful competition. The Commission must be careful and retain those regulations necessary to ensure that the public interest is met. The KCC believes that the Commission has the authority to maintain, or add, accounts that appear to benefit only state commissions. The KCC suggests that current rules and regulations should be maintained.

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for Interconnection; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; Local Competition and Broadband Reporting, CC Docket Nos. 00-199, 97-212, 80-286 (*Phase II Report and Order),* Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, FCC 01-305, ¶ 207. (rel. November 5, 2001).

[3] *Federal-State Joint Conference on Accounting Issues,* WC Docket No. 02-269, Order, 17 FCC Rcd 17025, 17025-27, ¶¶ 1, 7, (2002) (*Convening Order).*

[4] Letter from Federal-State Joint Conference on Accounting Issues to Marlene H. Dortch, Secretary, FCC, (October 9, 2003), (*Joint Conference Report).*

[5] *In the Matter of Federal-State Joint Conference On Accounting Issues; 2000 Biennial Regulatory Review-Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase II; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; and Local Competition and Broadband Reporting;* WC Docket No. 02-269, CC Docket No. 00-199, CC Docket No. 80-286, and CC Docket No. 99-301. (rel. June 24, 2004).

At first glance, a rule or regulation may not appear to have a direct federal need; however, the Commission should carefully consider if there is an indirect federal need for the rule or regulation. State commissions are charged with various duties, many set forth in the Federal Act. Thus, federal and state regulators must work together to protect the public interest while the industry changes from a monopoly environment to a competitive one. With numerous changes in the telecommunications industry and the deployment of new technologies, accounting and reporting requirements have become more complex. The distinction between the interstate and intrastate jurisdictions is not as clear as it may have been in the past.

The transition to a competitive market, combined with the deployment of new technologies and the blurring of the lines between the interstate and intrastate jurisdiction requires that all agencies, including state and federal regulators, have complete, accurate, and consistent information. The basis for information reported to agencies, including not only federal and state commissions, but also the Securities Exchange Commission, rating agencies, and the financial markets and community, is a company's books and records.

If accounting and reporting regulations are condensed or eliminated, companies have greater discretion in reporting or interpreting regulations. Such discretion has led to various accounting scandals in the recent past. Various agencies responded by increasing, and strengthening, their regulations. The Commission responded by convening the Joint Conference.[6]

To ensure that the public interest is protected, regulation of carriers and their operations is needed until the time that markets are fully competitive. As the telecommunications industry moves towards a more competitive market, the Commission's Uniform System of Accounts (USOA) and reporting regulations become more, not less, important. If the Commission eliminates requirements deemed necessary by the states, each state may opt to develop its own system of accounts. This may result in more, not less, regulatory expense for telecommunications carriers. Without a national standard, consistency and comparability are lost; thus, making it more difficult to determine if a company is accurately and truthfully disclosing its operating results.

As competition has grown, more carriers are being designated as Eligible Telecommunications Carriers (ETC), allowing them to be eligible to receive federal and/or state universal service fund support. The purpose of such funds is the promotion of local competition through explicit subsidies and comparable rates between urban and rural areas. As more carriers become eligible to receive such support, concerns about the size and sustainability of such funds grow. Pursuant to Section 54, state commissions are required to certify to the Commission whether such funds are used for the purposes intended. The state commissions must have the tools to ensure that they can meet these requirements. Thus, accounting and reporting requirements that allow state or federal regulators to monitor the state of competition, as well as the receipt and use of such funds, are essential and should not be modified or eliminated without input from state regulators.

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[6] C*onvening Order.*

Any proposed accounting or reporting requirements must be based on a partnership between the Commission and the states. The public interest must be weighed before any regulations are eliminated. We commend the Commission for continuing to refer certain issues to the Joint Conference, as stated in its *Report and Order*. We urge the Commission to carefully examine any modifications or the elimination of any regulations, through a partnership with the states.

For the Commission:

/s/ Brian J. Moline____________________________
Brian J. Moline, Chair

/s/ Robert E.Krehbiel__________________________
Robert E. Krehbiel, Commissioner

/s/ Michael C. Moffet_________________________
Michael C. Moffet, Commissioner